

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FREEDOM T.J. MORGANFLASH,

No. 2:15-CV-00172-JTR

Plaintiff,

vs.

REPORT AND
RECOMMENDATION TO GRANT
PLAINTIFF'S CONSTRUED
MOTION TO VOLUNTARILY
DISMISS COMPLAINT

JOHN DOE/JANE DOE, BERNARD
WERNER, KEVIN HOUSE, LARA
JENSE, DOMIGA SOLIZ, CATHY
GASTRIV, JOANNA PRIDEAUX,
BRINE CLIMENS, KEVIN VOGELER,
PAT HILLS, CHRISTINA
O'BLENESS, ROBERT RINARD,
NESSIN WELLER, NANCY TRAIS,
SHERRY RAY, and JODYNE
GASPERETTI,

Defendants.

By Order filed August 24, 2015, the Court instructed Plaintiff, a *pro se* prisoner at the Airway Heights Corrections Center to comply with the filing fee requirements of 28 U.S.C. § 1915(a)(2) or to pay the \$400.00 filing fee to commence this action. On September 4, 2015, the Court received Plaintiff's letter asking that his complaint not be filed at this time, and that it be sent back to him.

Because Plaintiff is proceeding *pro se*, the Court liberally construes this

REPORT AND RECOMMENDATION TO GRANT PLAINTIFF'S
CONSTRUED MOTION TO VOLUNTARILY DISMISS COMPLAINT -- 1

1 letter as a Motion to Voluntarily Dismiss pursuant to FED. R. CIV. P. 41(a).
2 Defendants have not been served in this action. Accordingly, **IT IS**
3 **RECOMMENDED** Plaintiff's Motion, **ECF No. 6**, be **GRANTED** and the
4 Complaint be **DISMISSED WITHOUT PREJUDICE**.

5 Plaintiff is advised that once a document has been submitted to the Court for
6 filing, it becomes a public document and cannot be returned. If Plaintiff wishes to
7 obtain a copy of his Complaint, consisting of 32 pages, he must remit \$16.00 to
8 cover the copy fee costs (\$.50 x 32 pages). Once this payment has been received
9 copies will be made and mailed promptly. Should Plaintiff wish to receive a
10 certified copy of his Complaint, the cost would be \$27.00 (copy fee cost + \$11.00
11 certification fee).

12 **OBJECTIONS**

13 Any party may object to a magistrate judge's proposed findings,
14 recommendations or report within fourteen (14) days following service with a copy
15 thereof. Such party shall file written objections with the Clerk of the Court and
16 serve objections on all parties, specifically identifying the portions to which
17 objection is being made, and the basis therefor. Any response to the objection
18 shall be filed within fourteen (14) days after receipt of the objection. Attention is
19 directed to FED. R. CIV. P. 6(e), which adds additional time after certain kinds of
20 service.

21 A district judge will make a de novo determination of those portions to
22 which objection is made and may accept, reject, or modify the magistrate judge's
23 determination. The judge need not conduct a new hearing or hear arguments and
24 may consider the magistrate judge's record and make an independent determination
25 thereon. The judge may, but is not required to, accept or consider additional
26 evidence, or may recommit the matter to the magistrate judge with instructions.
27 *United States v. Howell*, 231 F.3d 615, 621 (9th Cir. 2000); 28 U.S.C.
28 § 636(b)(1)(B) and (C), FED. R. CIV. P. 72; LMR 4, Local Rules for the Eastern

1 District of Washington.

2 A magistrate judge's recommendation cannot be appealed to a court of
3 appeals; only the district judge's order or judgment can be appealed.

4 The District Court Executive is directed to enter this Report and
5 Recommendation, forward a copy to Plaintiff and SET A CASE MANAGEMENT
6 DEADLINE.

7 DATED September 17, 2015.

A handwritten signature in black ink, appearing to be "M" or "Rodgers", written over a horizontal line.

JOHN T. RODGERS
UNITED STATES MAGISTRATE JUDGE